

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILDFLOWER + CO., INC.,	:
	:
Plaintiff,	:
	:
-v.-	:
	:
MOOD APPAREL, LTD. d/b/a MOOD FABRICS,	:
	:
Defendant.	:
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ORDER

20 Civ. 04577 (VSB) (GWG)

GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE

The defendant Mood Apparel, Ltd., d/b/a Mood Fabrics (“Mood”) has been found in default in this matter (Docket #21) based on service made on June 25, 2020, via the New York Secretary of State (Docket #8). While the Court recognizes that such service is legally sufficient to effectuate service under Fed. R. Civ. P. 4, as a practical matter it often occurs that a corporation registered with the New York Secretary of State fails to maintain an up-to-date address with that office. In addition, in light of the COVID pandemic, many business entities had to close their premises and may not have had full access to postal mail.

The Court notes that the Order to Show Cause regarding entry of a default judgment was also served on the Secretary of State (Docket # 20), even though it is not clear under Business Corporation Law § 306 that an order to show cause qualifies as “process” that the Secretary of State is legally obligated to forward. In the Court’s experience, greater efforts are usually made to inform a defendant of the possibility of entry of a default judgment.

It appears that Mood is a going concern in light of the fact that it maintains a website: <https://www.moodfabrics.com>. Thus, in order to minimize the possibility that a final default judgment issued by this Court may be the subject of a motion to vacate after the Court has done the work of fixing damages in this case, the Court will order the plaintiff to take a number of steps to ensure that Mood has notice of this Order and, as a result, notice of the fact that it is in default. If Mood receives this Order, it should act immediately to engage counsel to file a notice of appearance (or send a letter to the undersigned stating that it is in the process of engaging counsel).¹ At a minimum, it should provide an address to which future court Orders may be sent

¹ Any letter should contain the docket number of the case (20 Civ. 04577) and may be sent to:

Civil Docketing Unit
Clerk’s Office
U.S. Courthouse
500 Pearl Street
New York, NY 10007

with a copy sent to the undersigned at the same address.

to ensure its ability to participate in the adjudication of damages for its default.

The Court takes no position on whether Mood would have a valid motion to vacate the entry of default but if such a motion is to be filed, it obviously should be filed immediately.

The defendant's website includes a California address as well as the New York address listed with the Secretary of State: 1726 West Pico Blvd, Los Angeles, CA 90015. Defendant's website also lists an email address at which to contact defendant (info@moodfabrics.com). A call by a court employee to customer service at Mood provided the following additional email address: info2@moodfabrics.com.

Additionally, it seems likely that an attorney who has represented Mood in the past might volunteer to contact an appropriate officer of the defendant for purposes of informing that officer of the default. Court records indicate that the defendant was recently represented in a case in the Western District of New York (Docket # 20 Civ. 69) by Myriah V. Jaworski, and Jennifer A. Beckage, Beckage PLLC, 420 Main Street, Suite 1110, Buffalo, NY 14202 . Telephone: (716) 898-2101. Email: mjaworski@beckage.com and jbeckage@beckage.com. The U.S. Patent and Trademark Office website lists the following attorney for the company in a 2015 application: Afschineh Latifi, Tucker & Latifi, LLP, Suite 5E, 160 E 84th Street. New York, NY 10028. Email: Alatif@TuckerLatifi.com Tel. (212) 472-6262.

Finally, the website of the Secretary of State lists the following name and address for the Chief Executive Officer of Mood: Canit Sauma, 1 1st Class Marisco Ct, Blauvelt, NY 10913

In light of the above, it is hereby ORDERED that plaintiff shall:

1. Mail a copy of this Order to each of the following four addresses:

Canit Sauma,
1 1st Class Marisco Ct
Blauvelt, NY 10913

Attn: Chief Executive Officer
Mood Apparel Inc.
1726 West Pico Blvd,
Los Angeles, CA 90015

Myriah V. Jaworski, Esq.
Jennifer A. Beckage
Beckage PLLC
420 Main Street,
Suite 1110,
Buffalo, NY 14202

Afschineh Latifi
Tucker & Latifi, LLP
Suite 5E
160 E 84th Street.
New York, NY 10028

2. Email to the following email addresses a copy of (a) this Order, (b) the summons and complaint, and (c) the Order appearing as Docket # 21. The subject line should contain the caption and docket number of the case and the body of the email text should reflect that the email is being sent pursuant to a Court Order:

info@moodfabrics.com.
info2@moodfabrics.com.
Alatifi@TuckerLatifi.com
mjaworski@beckage.com
jbeckage@beckage.com

3. File a letter or declaration with this Court on or before November 23, 2020, indicating compliance with this Order.

While not ordering plaintiff to do so, the Court suggests that plaintiff call one or more of the attorneys at the phone numbers set forth in this Order in an effort to confirm receipt of the documents.

SO ORDERED.

Dated: November 12, 2020
New York, New York



GABRIEL W. KORENSTEIN
United States Magistrate Judge